

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ANTHONY G. HERBERT,

Plaintiff

v.

KING COUNTY, et al.,

Defendants.

NO. C14-1906-RAJ

ORDER DENYING PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT AND GRANTING
IN PART AND DENYING IN
PART DEFENDANTS' MOTION
FOR SUMMARY JUDGMENT

The Court, pursuant to Federal Rule of Civil Procedure 72(b)(3), and having reviewed and considered the Report and Recommendation of the Honorable James P. Donohue, United States Magistrate Judge, and any objections or responses to that, and the remaining record, finds and Orders as follows:

1. The Court ADOPTS the Report and Recommendation.
2. Plaintiff's motion for summary judgment, Dkt. 64, is DENIED.
3. Defendants' motion for summary judgment, Dkt. 65, is GRANTED in part and DENIED in part, as detailed in the Report and Recommendation.

1 4. The following claims are DISMISSED with prejudice: *Monell* claims
2 against King County based on restrictions in protective custody and sanitization
3 requirements; retaliation claim against CPS Johnson; failure to protect claims against
4 CPS Johnson and Officer L. Jones; due process hearing claim against CPS Johnson;
5 claims against ARNP Schroeder, Amy Calderwood, Chuck Sloan, and Sergeant Louis;
6 Fifth Amendment claims against all defendants; and official capacity claims against all
7 defendants.

8 5. The following claims remain in this lawsuit: *Monell* claims against King
9 County based on the sexually explicit material ban, infrequency of haircuts, and lack of
10 shower curtains in Ad-Seg; excessive force against Officer Pasco; failure to protect from
11 other inmates against Sergeant Justice and Officers Harvey and Pasco; First Amendment
12 retaliation against Commander Karlsson, Captain Woodbury, Sergeant Fasen, CPS
13 Johnson, and Officers Pasco, Gorman, and Verhelst; failure to conduct a due process
14 hearing against CPS Morano and Officer Vigil; conspiracy against Nurse Trish; violation
15 of due process right to be free from punishment against Commander Karlsson, Captain
16 Woodbury, and Officers Robertson, Pasco, Gorman, and Verhelst; failure to intervene in
17 mistreatment by officers against Commander Karlsson, Captains Bacon and Clark, and
18 Sergeants Wheeler, Wilks, Burrows, Allred, Fasen, and Mohamed; failure to ensure the
19 safe delivery of plaintiff's property against Sergeant Allred; deliberate indifference to
20 serious medical needs against Officers Washington, Williamson, and L. Jones; intentional
21 infliction of emotional distress against CPS Johnson and Sergeant Justice; and negligence
22 against Officer L. Jones.
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1 6. This matter is RE-REFERRED to Judge Donohue for further proceedings.

2 7. The Clerk shall send a copy of this Order to the parties and to Judge Donohue.

3 DATED this 11th day of July, 2016.

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7 The Honorable Richard A. Jones
8 United States District Judge
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